

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 2:07-cv-01088-LA
)	
DAVID L. DIX; DENISE E. DIX;)	
STEPHAN B. HALE SR.; WISCONSIN)	
DEPARTMENT OF REVENUE; and)	
MADISON NEWSPAPERS, INC.)	
)	
Defendants.)	

ORDER OF SALE

An Order of Default Judgment has been entered in favor of the United States and against defendants David L. and Denise Dix in the amount of \$153,316.09, plus accruals from December 8, 2007. The United States has been granted judgment foreclosing the federal tax liens against real property located at 517 Arcadia Avenue, Waukesha, Wisconsin, within the Eastern District of Wisconsin ("the Property"), and more particularly described as follows:

Lot 3 and that part of Lot 2 in Block A of Randles Addition to the City of Waukesha, commencing at the Northeast corner of said Lot 2 on the South line of Arcadian Avenue, thence Westerly along Arcadian Avenue 6 feet, thence South to a point on the South line 10 feet westerly of the Southeast corner, thence East 10 feet to the Southeast corner, North along the East line to the beginning, being a part of the Northwest One-quarter (NW 1/4) of Section Two (2), Town Six (6) North, Range Nineteen (19) East, in the City of Waukesha, County of Waukesha, State of Wisconsin.

1. The Property Appraisal and Liquidation Specialist of the Internal Revenue Service ("PALS") is authorized and directed under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell the Property without further order or process.

2. PALS is authorized to have free access to the Property and to take all actions necessary to preserve the Property, including but not limited to, retaining a locksmith or other person to change or install locks or other security devices on any part of the Property, until the deed to the Property is delivered to the ultimate purchaser.

3. The terms and conditions of the sale are as follows:

- a. The sale of the Property shall be free and clear of any interests of David and Denise Dix and any other parties to this action;
- b. The sale shall be subject to building lines, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the Property, and easements and restrictions of record, if any;
- c. The sale shall be held either at the courthouse of the county in which the Property is located or on the Property's premises. The date and time for the sale shall be determined and announced by PALS;
- d. PALS is permitted to enter the premises, and prospective buyers shall be allowed to conduct an inspection of the exterior and interior of the Property at such time as PALS shall determine to be reasonable and convenient;
- e. Notice of the sale shall be published once a week for at least four consecutive weeks before the sale in at least one newspaper regularly issued and of general circulation in Waukesha County, Wisconsin, and at the discretion of PALS, by any other notice as PALS deems appropriate.

The notice shall contain a description of the Property and shall contain the terms and conditions of sale in this order of sale;

- f. PALS shall set the minimum bid. If the minimum bid is not met or exceeded, PALS may, without further permission of this Court, and under the terms and conditions in this order of sale, hold a new public sale, if necessary, and reduce the minimum bid;
- g. At the time of the sale, the successful bidder shall deposit with PALS, by money order or certified or cashier's check payable to the United States District Court for the Eastern District of Wisconsin, a minimum of twenty percent of the bid. Before being permitted to bid at the sale, potential bidders shall display to PALS the proof that they are able to comply with this requirement. No bids will be accepted from any persons who have not presented proof that, if they are successful bidders, they can make the deposit required by this order of sale.
- h. The successful bidder(s) shall pay the balance of the purchase price for the Property to the Clerk of this Court, within thirty (30) days following the date of the sale, by a certified or cashier's check or money order payable to the United States District Court for the Eastern District of Wisconsin. If the bidder fails to fulfill this requirement, the deposit shall be forfeited and applied towards the expenses of the sale, with any amount remaining to be distributed in accordance with the priorities of the parties in this action. The Property shall be again offered for sale under the terms and conditions of this order of sale or, in the alternative, the Property may be

sold to the second highest bidder from the previous auction, if above the minimum bid, without the necessity of conducting another auction. The United States may bid as a credit against its judgment without tender of cash. PALS shall make report of the sale of the Property, with its proceedings endorsed thereon, showing the manner in which it has executed the same, within sixty days from the date of the sale of the Property;

- i. The sale of the Property shall be subject to confirmation by this Court. Upon confirmation of the sale, PALS shall execute and deliver a deed conveying the Property to the purchaser. Upon confirmation of the sale, all interests in, liens against, or claims to the Property that are held or asserted by all parties to this action are discharged and extinguished.
- j. Once the sale of the Property is confirmed, the Registrar of Deeds of Waukesha County, Wisconsin shall cause transfer of the Property to be reflected upon that county's register of title. The successful bidder at the sale shall pay, in addition to the bid amount, any documentary stamps and Clerk's registry fees as required by law;
- k. The sale of the Property is ordered in accordance with 28 U.S.C. § 2001, and is made without right of redemption;

4. Until the Property is sold, David and Denise Dix shall take all reasonable steps necessary to preserve the Property (including all buildings, improvements, fixtures and appurtenances on the Properties) in its current condition, including, without limitation, maintaining a fire and casualty insurance policy on the Property. David and Denise Dix shall

neither commit waste against the Property nor cause or permit anyone else to do so. They shall neither do anything that tends to reduce the value or marketability of the Property nor cause or permit anyone else to do so. David and Denise Dix shall not record any instruments, publish any notice, or take any other action (such as running newspaper advertisements or posting signs) that may directly or indirectly tend to adversely affect the value of the Property or that may tend to deter or discourage potential bidders from participating in the public auction, nor shall they cause or permit anyone else to do so.

5. All persons occupying the Property shall vacate the Property permanently within 30 days of the date of this Order, each taking his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the Property). If any person fails or refuses to vacate the Property by the time specified in this Order, PALS is authorized to coordinate with the United States Marshal to take all actions that are reasonably necessary to have those persons ejected. Any personal property remaining on the Property thirty (30) days after the date of this Order is deemed forfeited and abandoned, and PALS is authorized to remove it and dispose of it in any manner it sees fit, including sale, in which case the proceeds of the sale are to be applied first to the expenses of the sale and the balance to be held for further distribution as ordered by the Court.

6. No later than two business days after vacating the Property by the deadline set forth in paragraph 5 above, David and Denise Dix shall provide in writing to counsel for the United States an address where they can be reached. A copy of this document shall also be filed with the Court.

7. After confirmation of the sale, the sale proceeds are to be paid as follows:

- a. First, to PALS for the expenses of the sale, including any expenses incurred to secure or maintain the property pending sale and confirmation by the Court. If the Government is the successful bidder, and therefore has not tendered cash, the Government shall tender to PALS the expenses of the sale;
- b. Second, to all taxes unpaid and matured that are owed to Waukesha County for real property taxes on the property;
- c. Third, to the United States for all costs of this action, including the 10% surcharge permitted by 28 U.S.C. § 3011;
- d. Fourth, to defendant Stephan B. Hale for the unpaid balance of the mortgage on the Property;
- e. Fifth, to the United States to be applied towards the liability of David and Denise Dix for their unpaid 1990 through 1994 and 1996 and 1997 federal income taxes, plus all accrued interest, penalties, and other additions permitted by law;
- f. Sixth, to defendant Wisconsin Department of Revenue for state taxes assessed against defendant David Dix on December 8, 2003, November 22, 2004, and October 17, 2005, if any proceeds are remaining after the above have been satisfied.

8. Within ten (10) after confirmation of the sale of the Property, each of the above defendants shall provide in writing to counsel for the United States an updated balance of its lien interest as of the date of confirmation.

9. The United States will submit a proposed Order for Distribution of the Sale

Proceeds in accordance with this Order of Sale after confirmation of the sale of the Property.

Dated: Aug 12, 2009



LYNN ADELMAN
United States District Judge